UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,681	12/05/2003	Roy E. Moore JR.	INI-0031-D2	3168

23413 7590 05/25/2006

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

EXAMINER	
CHEN, JOSE V	

ART UNIT	PAPER NUMBER
3637	

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/729,681	MOORE ET AL.	
	Examiner	Art Unit	
	José V. Chen	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11, 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The expressions "the specifications of the Virginia Tech Protocol" (claim 11), "the GMA guidelines" (claim 12) have no definite antecedent basis in the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Wharton. The patent to Wharton teaches structure as claimed including collapsible pallet, comprising an upper deck (22), a foot member disposed on the upper deck, the foot member comprising a first foot half disposed on the upper deck, the first foot half having a pin disposed thereon, and a second foot half, the second foot half having a hole disposed therein for receiving the pin, and a lower deck (24) comprising the second foot half, the pin is slidably disposed in the hole.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 9-13, 2, 5, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wharton. The patent to Wharton teaches structure as claimed including collapsible pallet, comprising an upper deck (22), a foot member disposed on the upper deck, the foot member comprising a first foot half disposed on the upper deck, the first foot half having a pin disposed thereon, and a second foot half, the second foot half having a hole disposed therein for receiving the pin, and a lower deck (24) comprising the second foot half, the pin is slidably disposed in the hole, deck members the only difference being the specific weight per area percentage. However, the use of different degrees of weight per area percentages are matters of desirability and choice and materials used which would have been and well within the level of ordinary skill in the art at the time of the invention since such results are matters of materials and

engineering mechanics, thereby providing structure as claimed. In response to applicant's remarks, it is repeated that the use of different degrees of weight percentages are matters of desirability which is routinely taught in strength of materials and engineering courses depending upon the parameters needed. To use this knowledge of different materials, densities to provide the well known effect of such materials would have been obvious and well within the level of ordinary skill in the art.

Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wharton as applied to the claims above, and further in view of Francis. The patent to Wharton teaches structure substantially as claimed as discussed above including connecting pin structure , the only difference being that the hole is not a keyhole slot type structure . However, the patent to Francis teaches the use of providing keyhole slot and pin structure for connection to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Wharton to include a keyhole slot connecting structure as taught by Francis since such structures are conventional alternative structures used in the same intended purpose, thereby providing structure as claimed. In response to applicant's remarks, it is the conventionality of the connectors that provides the motivation as the are both conventional alternative structures used in the same intended purpose

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wharton as applied to the claims above, and further in view of Daley. The patent to Wharton teaches structure substantially as claimed as discussed above including a foot structure, the only difference being that there is no foam insert to strengthen the foot.

However, the patent to Daley teaches the use of providing foam to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Wharton to include foam inserts as taught by Daley to provide increased strength since such structures are conventional alternative structures used in the same intended purpose, thereby providing structure as claimed.

Response to Arguments

Applicant's arguments filed 03/08/06 have been fully considered but they are not persuasive.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José V. Chen whose telephone number is (571)272-6865. The examiner can normally be reached on m-f,m-th 5:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571)272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

José V. Chen
Primary Examiner
Art Unit 3637

Chen/jvc
05-17-06